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LIMITED CONSERVATORSHIP

Assisting a Person Who Has a Developmental Disability

A **limited conservator** may be appointed for an adult with a **developmental disability**. Limited conservatorships are set up to assist developmentally disabled adults who are unable to provide for all their personal or financial needs. Because the conservatee's growth and development have been impaired or delayed, a limited conservatorship attempts to encourage further development wherever possible. A **limited conservator's** duty is to help the **limited conservatee** develop maximum self-reliance and independence.

The conservator arranges

- Training in basic living skills
- Education
- Medical care and counseling
- Social, recreational, and work opportunities

Special services are available for people with developmental disabilities. These resources are discussed in Section 6 of this chapter.

Limited conservatorships differ from general conservatorships in the following ways:

- When a judge is asked to appoint a limited conservator, the proposed conservatee must have a lawyer, either chosen by the conservatee or appointed by the court.
- When a petition for appointment of a limited conservator is filed, an **assessment** of the proposed limited conservatee must be conducted by a California regional center for the developmentally disabled, and a confidential report of the assessment must be filed with the court before the hearing.
- Unless a judge authorizes it, the limited conservator does **not** have the powers to
 - Decide the residence of the conservatee
 - Gain access to the confidential records and papers of the conservatee
 - Control the conservatee's social and sexual relationships
 - Control the conservatee's financial resources
 - Make decisions concerning the conservatee's education
- The conservatorship ends when the conservator dies.

As a limited conservator, you also should be familiar with the information in the rest of this handbook. If you have questions about whether general conservatorship information applies to limited conservatorships, contact your lawyer. **L**

1. Limited Conservator's Authority

As a limited conservator, you have the authority to do **only** those things that were laid out by the judge when you were appointed. The judge has decided which responsibilities the conservatee will keep and which ones you will have. Your **Letters of Conservatorship** and the judge's order appointing you state what you are allowed to do.

By contrast, a general conservator is empowered to act in areas that aren't necessarily specified in his or her Letters. The Letters of a general conservator specify only special powers or limits set by the judge. It is important to recognize this difference in using the information in other chapters of this handbook.

To find out more about any of your responsibilities as a limited conservator, look in this handbook to find that responsibility for general conservators. For instance, if you have been charged with deciding where the limited conservatee will live, look at Chapter 4, Section 2. If you are authorized to decide about medical care, read Chapter 4, Section 3. But remember: there may be differences in the way these situations should be handled for a limited conservatee. **L**

Since a limited conservatee is considered to be growing and developing, always try to make choices that will enhance self-reliance and independence. Your choices for a 25-year-old limited conservatee may differ from your choices for an elderly person in bad health, for example.

Authority of Limited versus General Conservator

Limited conservator The judge gives a limited conservator authority to take care of specific aspects of the conservatee's life and no others; the limited conservator's Letters list the exact areas in which he or she is authorized to act.

General conservator The general conservator has authority to take care of a broad range of the conservatee's needs; the general conservator's Letters won't list all the many areas in which he or she is authorized to act but will specify only special powers or limits on that authority.

2. Limited Conservator of the Person

A limited conservator of the person has only the authority specified in his or her Letters. A judge may authorize a limited conservator of the person to

- Decide where the conservatee will live
- See mail, medical records, test results, reports, and all other confidential records and papers relating to the conservatee

- Consent or withhold consent to the conservatee's marriage
- Be the only person who may **consent to medical treatment**
- Restrict the conservatee's social and sexual contacts and relationships
- Make all decisions about the conservatee's education
- Restrict the conservatee's right to make contracts

A. Authority to Control Contracts

The authority of a limited conservator of the person to control the conservatee's contracts is unique to limited conservatorships. In general conservatorships, this authority is given to the conservator of the estate.

The authority of the limited conservator of the person is to control the conservatee's authority to make contracts. A limited conservatorship of the **estate** is still required if you, as limited conservator, need to enter into contracts yourself for the benefit of the conservatee that bind or obligate his or her estate, or if you need to manage property of the conservatee. If, on the other hand, the conservatee controls his or her own contracts and retains management powers over his or her financial affairs, there may be no need to appoint a limited conservator of the estate.

B. No Authority to Sterilize a Limited Conservatee

Even if you have been given authority to consent to medical treatment for the limited conservatee, you are not allowed to have the conservatee sterilized. Only a judge may make that decision. If any proposed medical treatment or surgery may result in sterilization, get legal advice. **L**

3. Limited Conservator of the Estate

A limited conservator of the estate has only the authority specified in his or her Letters. If you have been appointed conservator of the estate, the information about estate conservatorships in other parts of this handbook applies to you.

4. Court Supervision of a Limited Conservatorship

A court investigator will visit the limited conservatee one year after you were appointed and every two years after that. The investigation will be the same as for general conservatorships and is described in Chapter 7, Section 1(B). The investigator will recommend to the judge whether to continue the limited conservatorship.

5. Ending a Limited Conservatorship

A limited conservatorship continues until one of the following occurs:

- The limited conservator dies.
- The limited conservatee dies.
- A general conservator is appointed.
- A judge ends the limited conservatorship.

If the conservatee dies, be sure to notify the court by sending a letter to the court investigator. If you are a limited conservator of the estate, contact your lawyer for help preparing an accounting, if required, or a report to file with the court. **L**

The conservatorship and your responsibilities under it won't end until you have done these things and a judge **discharges** you.

6. Regional Center Resources

In California, people with developmental disabilities have a right to services they need to live independent, productive, normal lives. The state must provide services for each person with a developmental disability at each stage of his or her life, regardless of age or degree of handicap. These services are available whether the person is under a general conservatorship, a limited conservatorship, or no conservatorship at all.

State services are provided by **regional centers**. These nonprofit corporations have contracts with the California Department of Developmental Services to serve people with developmental disabilities in a geographical area. To find the regional

center for your area, see Appendix B, “How to Find and Use Community Resources,” at the back of this handbook.

The appropriate regional center must be notified when a court is asked to appoint a conservator for someone with a developmental disability. In most instances, the regional center must assess the proposed conservatee’s needs and report the results to the court before the conservatorship hearing.

The regional center can offer a lot of help. Regional centers provide some services directly, including assessment, **case management**, planning a program of care for the conservatee, and advocacy for the conservatee’s rights. Regional centers also must help you get other services needed by the conservatee. If the center staff can’t find an agency to provide the service without charge, the center is supposed to pay for the service. See “Regional Center Services” later in this chapter.

Additional Resources

Chapter 4, Section 7(G): Day programs for people with developmental disabilities.

Chapter 4, Section 7(M) and (N): Work training and educational programs, respectively.

See also Appendix B, “How to Find and Use Community Resources.”

REGIONAL CENTER SERVICES

Regional centers arrange for or provide a number of services to people with developmental disabilities, even those who are not conservatees. Services include

- Diagnosis, evaluation, and treatment
- Personal care, day care, and special living arrangements
- Physical and occupational therapy
- Job training and education
- Information about employment opportunities in sheltered settings

- Services to help people with developmental disabilities work in the general community
- Mental health services
- Recreation
- Individual and family counseling
- Protective services
- Information and referral services
- Transportation to and from services
- **Respite care**
- Advocacy to help people with developmental disabilities get and keep government benefits